

In the Matter of Merchant Mariner's Document No. Z-1094036-D1 and
all other Seaman Documents
Issued to: William Adams

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1312

William Adams

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 29 June 1961, an Examiner of the United States Coast Guard at Baltimore, Maryland suspended Appellant's seaman documents upon finding him guilty of misconduct. The six specifications found proved allege that while serving as a utilityman on the United States SS CHILORE under authority of the document above described, on 11 February 1961, Appellant was absent from the ship without permission, created a disturbance on the ship, addressed the Master and Chief Mate with abusive and threatening language; on 17 February 1961, he disobeyed a lawful order of the Master, created a disturbance ashore, and assaulted a crew member with an ax. Four other specifications were dismissed by the Examiner.

At the hearing, Appellant was represented by counsel who entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence the testimony of several witnesses and certified copies of entries in the ship's Official Logbook. Appellant testified in his defense.

At the end of the hearing, the Examiner rendered the decision in which he concluded that the charge and six specifications had been proved. The Examiner then entered an order suspending all documents, issued to Appellant, for a period of six months outright plus six months on twelve months' probation.

FINDINGS OF FACT

On 11 and 17 February 1961, Appellant was serving as utilityman on the United States SS CHILORE and acting under authority of his document while the ship was in the port of Kawasaki, Japan.

On 11 February, Appellant went ashore during regular working hours without permission. When he returned on board under the influence of intoxicants, he went to the messhall and created a disturbance by loudly demanding that he be served. While the Chief

Mate was taking Appellant from the messhall to the brig, he addressed the Master with extremely vulgar language.

On 17 February, the Master ordered Appellant not to go ashore. Appellant deliberately disobeyed this order and created a disturbance by getting in a fight and destroying about \$30.00 worth of property in a local barroom. After Appellant returned to the ship, he frightened another member of the crew by going into his room with a fire ax and threatening to kill everyone in the room.

Appellant has no prior record.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the findings of fact are not supported by the evidence. Appellant had authority to leave the ship on 11 February. It was inconsistent to dismiss one specification alleging an assault and to find another assault proved on the basis of similar evidence.

It is respectfully submitted that the order should be vacated.

APPEARANCE: Weldon Leroy Maddox, Esquire, of Baltimore,
 Maryland of Counsel

OPINION

The Examiner's findings as to these six specifications will be sustained with the exception of finding that the objectionable language was directed only toward the Master and was not threatening. In his testimony, Appellant admitted that he was guilty of these offenses except disobeying the Master and assault with an ax. In counsel's closing argument, he conceded that Appellant was guilty of the offenses found proved. The Examiner properly considered the testimony of other witnesses to prevail over that of the Appellant in areas of conflict. Appellant's recollection was hazy as to some events due to his intoxication on both dates. One assault specification was dismissed because the person allegedly assaulted testified that he was not in fear of bodily harm. The seaman assaulted with the ax testified otherwise.

ORDER

The order of the Examiner dated at Baltimore, Maryland, on 29 June 1961, is AFFIRMED.

A. C. Richmond
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 8th day of May 1962.